

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Strickland Analyst: Kristina North Bill Number: AB 287

Related Bills: See previous analysis Telephone: 845-6978 Amended Date: March 10, 1999

Attorney: Doug Bramhall Sponsor:

**SUBJECT:** Agricultural Product Donations Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 4, 1999.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 4, 1999, STILL APPLIES.

X OTHER - See comments below.

### SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would provide an unlimited 100% credit equal to the wholesale value of agricultural products donated by a taxpayer to a nonprofit charitable organization or food bank.

### SUMMARY OF AMENDMENT

The March 10, 1999, amendment replaced "farmer" with "taxpayer," allowing a credit to any taxpayer making an agricultural donation to a nonprofit charitable organization or food bank. A new revenue estimate is provided resulting from this amendment. Since the credit would now be available to all taxpayers, the implementation concern requesting whether the author intended to include farming co-ops is removed. Except for the new revenue estimate and the removal of the implementation concern, the remainder of the department's analysis of this bill as introduced February 4, 1999, still applies.

### Implementation Considerations

Department staff previously identified the following implementation concerns and they are reprinted here for convenience:

- ◆ Definitions are needed for "agricultural products," "nonprofit charitable organizations," and "food bank." The author may wish to consider using the definitions provided in the California Food and Agricultural Code regarding the donation of food.

#### Board Position:

<u>      </u> S	<u>      </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>      </u> N	<u>      </u> OUA	<u>  X  </u> PENDING

Department/Legislative Director Date

**Johnnie Lou Rosas** **3/19/1999**

- ◆ It is unclear what constitutes "fair market value at wholesale," and a definition would avoid disputes between taxpayers and the department. For example, is it unclear if the market value should be calculated as of the time of donation or at the highest wholesale price of the year.
- ◆ This bill does not provide a process by which the donation of an agricultural product to a nonprofit charitable organization or food bank could be verified. Most credits require some method of verification, such as requiring the recipient organization to provide a written receipt with the type and quantity of product donated, name or names and of the donor or donors, the name and address of the recipient. The receipt should be available to the department upon request.

Department staff is available to assist in the resolution of these and any other concerns identified.

#### **Tax Revenue Estimate**

This bill is estimated to impact revenue as shown in the following table.

Fiscal Year Cash Flow Taxable/Income Years Beginning After December 31, 1998 Enactment Assumed After June 30, 1999 \$ Millions		
1999/2000	2000/2001	2001/2002
(\$21)	(\$22)	(\$23)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

#### **Tax Revenue Discussion**

The revenue impact for this bill will be determined by the wholesale value of donated agricultural products by taxpayers to charitable organizations, and the amount of credits that can be applied against available tax liabilities. Since wholesale values fluctuate throughout the year, the bill as written would not prevent taxpayers from claiming the highest value.

It was projected for the original bill that for every \$150 million in gross wholesale values claimed by farmers in contributions, the potential revenue loss would be around \$5 million. Since the bill lacks definitions, donated products could represent prior year inventory and current year production of comparable or lesser quality that is not readily marketable. Farmers that have operating losses for the year could provide for carryover credits for subsequent years. The order of magnitude loss, therefore, was projected to be as high as \$10 million annually (approximately \$300 million in claimed wholesale values).

The revenue losses shown above for the amended version also take into account other taxpayers, such as retailers and co-ops. For this segment, information on the former 10% donation credit was used. Revenue losses compiled from historical data for 1989 through 1991 were approximately \$750,000 (excluding farmers) on average per year.

This revenue loss was grown and adjusted to reflect a 100% credit and gross wholesale values that would be allowed under this bill. This impact results in \$11 million for 1999. This number was added to the \$10 million estimated for farmers, leaving a total revenue loss of approximately \$21 million for income/taxable years beginning in 1999.

It is assumed that the transporting of usable, packaged goods (i.e. fruits, nuts, vegetables, rice, etc.) by taxpayers, co-ops, or by tax-exempt entities themselves would not be a significant obstacle, and that donations would have to be made in California. The value of current agricultural products donated to charitable organizations by taxpayers is not available.